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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Rex Whitehead,)	
)	
Plaintiff,)	
)	
v.)	CIV 04-867 PHX VAM
)	
Rockford Corporation,)	<u>O R D E R</u>
)	
<u>Defendant.</u>)	

On November 2, 2005, the undersigned ordered plaintiff to show cause by November 14, 2005 why this case should not be dismissed for failure to serve the Amended Complaint and follow court orders. Plaintiff did not respond to the order to show cause.

Federal Rule of Civil Procedure 4(m) states:

(m) Time Limit for Service. If service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint, the court, upon motion or on its own initiative after notice to the plaintiff, shall dismiss the action without prejudice as to that defendant or direct that service be effected within a specified time; provided that if the plaintiff shows good cause for the failure, the court shall extend the time for service for an appropriate period. . .

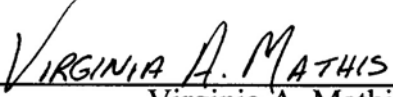
Rule 4(m), Federal Rules of Civil Procedure.

The complaint in this action was filed on April 27, 2004 (Doc. 1) and an amended complaint was filed on July 12, 2005 (Doc. 13). Pursuant to an Order dated July 11, 2005, plaintiff was given until September 30, 2005 to properly serve the amended

1 complaint or risk dismissal of the action. As stated above,
2 plaintiff has failed to serve the amended complaint has failed to
3 respond to the Court order to show cause.

4 **IT IS THEREFORE ORDERED** that this action is dismissed without
5 prejudice pursuant to Federal Rule of Civil Procedure 4(m).

6 DATED this 21st day of November, 2005.

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10 Virginia A. Mathis
11 United States Magistrate Judge
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